

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

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JOSEPH FAILLA

Plaintiff(s)

v.

GEORGE'S FOODS, LLC, GEORGE'S  
FAMILY FARM and TRACY L BROWN

Defendant(s)

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: Civil Action No. 3:20-cv-07109-BRM-TJB  
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: Hon. Brian R. Martinotti, U.S.D.J.  
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: **JOINT PROPOSED DISCOVERY PLAN**<sup>1</sup>  
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1. Set forth the name of each attorney appearing, the firm name, address and telephone number and facsimile number of each, designating the party represented.

For Plaintiff:

David T. Sirotkin

Benedict P. Morelli (*Pending Admission Pro Hac Vice*)

Alexander Morelli (*Pending Admission Pro Hac Vice*)

Morelli Law Firm

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212-751-9800

For Defendant George's Foods, LLC., George's Family Farm and Tracy L. Brown

Mark Kundla

Paul Daly

Hardin, Kundla, McKeon & Poletto

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2. Set forth a brief description of the case, including the causes of action and defenses asserted.

This matter arises out of a motor vehicle accident that occurred on January 15, 2020, on Rt. 78 eastbound in/near Alpha Borough, NJ. Plaintiff was an employee

of Traffic Safety Services, LLC. He was in the process of setting up a construction zone sign, when he was allegedly hit by a truck operated by defendant Tracy Brown who was in the employment of defendant George's Food, LLC, and/or George's Family Farm. As a result of the accident, Plaintiff sustained injuries including, but not limited to a severe traumatic brain injury, skull fracture, sternal and rib fractures, and internal injuries that required surgery. Plaintiff alleges that Defendant Brown, who was operating his truck in the course of his employment for the George's Defendants, was 100% negligent in causing this accident. Defendants allege that the accident was the result of Plaintiff's negligence in parking his work vehicle in an unsafe matter and creating the hazard that led to this accident.

3. Have settlement discussions taken place? Yes \_\_\_\_\_ No X \_\_\_\_\_
  - (a) What was plaintiff's last demand?
    - (1) Monetary demand: \$ \_\_\_\_\_
    - (2) Non-monetary demand: \_\_\_\_\_
  - (b) What was defendant's last offer?
    - (1) Monetary offer: \$ \_\_\_\_\_
    - (2) Non-monetary offer: \_\_\_\_\_
4. The parties [have X \_\_\_\_\_ have not \_\_\_\_\_] met pursuant to Fed. R. Civ. P. 26(f):
5. The parties [have X \_\_\_\_\_ have not \_\_\_\_\_] exchanged the information required by Fed. R. Civ. P. 26(a)(1). If not, state the reason therefor.
6. Explain any problems in connection with completing the disclosures required by Fed R. Civ. P. 26(a)(1)
7. The parties [have \_\_\_\_\_ have not x \_\_\_\_\_] conducted discovery other than the above disclosures. If so, describe.
8. Proposed joint discovery plan:
  - (a) Discovery is needed on the following subjects:
 

Liability and damages
  - (b) Discovery [should \_\_\_\_\_ should not X \_\_\_\_\_] be conducted in phases or be limited to particular issues. Explain.

(c) Proposed schedule:

- (1) Fed. R. Civ. P. 26 Disclosures Completed.
- (2) E-Discovery conference pursuant to L. Civ. R. 26.1(d) Completed.
- (3) Service of initial written discovery September 1, 2020.
- (4) Maximum of 25 Interrogatories by each party to each other party.
- (5) Maximum of 10 depositions to be taken by each party.
- (6) Motions to amend or to add parties to be filed by November 1, 2020.
- (7) Vehicle inspection to be completed by December 1, 2020
- (8) Factual discovery to be completed by February 17, 2021.
- (9) Plaintiff's expert reports due on March 17, 2021.
- (10) Defendant's expert reports due on April 17, 2021.
- (11) Expert depositions to be completed by May 17, 2021.
- (12) Dispositive motions to be served within 30 days of completion of discovery.

(d) Set forth any special discovery mechanism or procedure requested.

The parties agree that in view of Covid19, depositions may be conducted by video teleconference.

(e) A pretrial conference may take place on\_\_\_\_\_.

(f) Trial date:\_\_\_\_\_Jury Trial; X Non-Jury Trial).

9. Do you anticipate any special discovery needs (i.e., videotape/telephone depositions, problems with out-of-state witnesses or documents, etc)? Yes\_\_\_\_\_NoX\_. If so, please ex
10. Do you anticipate any issues about disclosure or discovery of electronically stored information, including the form or forms in which it should be

produced?

Yes \_\_\_\_\_ No x \_\_\_\_\_.

If so, how will electronic discovery or data be disclosed or produced? Describe any agreements reached by the parties regarding same, including costs of discovery, production, related software, licensing agreements, etc.

11. Do you anticipate entry of a Discovery Confidentiality Order? See L.Civ.R. 5.3(b) and Appendix S. No
12. Do you anticipate any discovery problem(s) not listed above? Describe. Yes \_\_\_\_\_ No X \_\_\_\_\_.
13. State whether this case is appropriate for voluntary arbitration (pursuant to Local Civil Rule 201.1 or otherwise) or mediation (pursuant to Local Civil Rule 301.1 or otherwise). If not, explain why and state whether any such procedure may be appropriate at a later time (i.e., after exchange of pretrial disclosures, after completion of depositions, after disposition or dispositive motions, etc.). Yes.
14. Is this case appropriate for bifurcation? Yes \_\_\_\_\_ No X \_\_\_\_\_
15. An interim status/settlement conference (with clients in attendance), should be held in \_\_\_\_\_.
16. We [do \_\_\_\_\_ do not X \_\_\_\_\_] consent to the trial being conducted by a Magistrate Judge.
17. Identify any other issues to address at the Rule 16 Scheduling Conference.

David T. Sirotkin /s

\_\_\_\_\_  
Attorney(s) for Plaintiff(s) / Date

Paul Daly /s

\_\_\_\_\_  
Attorney(s) for Defendant(s) / Date

